

MINUTES
A REGULAR MEETING
of the
DALWORTHINGTON GARDENS

Executive Session: Thursday, September 18, 2008 – 6:30 P.M.

Regular Session: Thursday, September 18, 2008 7:00 P.M.

EXECUTIVE SESSION An executive session was held at 6:30 p.m. for the purpose of considering personnel matters of the kind within the exceptions for open meeting requirements contained in Chapter 551.071 of the Texas Government Code.

REGULAR SESSION

A regular meeting was held at 7:00 o'clock p.m. on Thursday, September 18, 2008 in the Council Chambers of the Dalworthington Gardens City Hall, 2600 Roosevelt Drive, Dalworthington Gardens, Texas. The following items of business were considered, discussed and acted upon, as deemed appropriate by the Council:

MEMBERS PRESENT:

Michael Tedder, Mayor
Guy Snodgrass, Mayor Pro tem
Mike Pettke, Councilman
Steve Loe, Councilman
Jim Piland, Councilman
Ken Wallace, Councilman

MEMBERS ABSENT: None

STAFF PRESENT:

Melinda Brittain, City Secretary
Stan Wilkes, City Attorney
Dick Perkins, City Engineer
Bill Waybourn, Chief of Public Safety

CALL TO ORDER - Mayor Tedder called the meeting to order at 7:08 p.m.

1. RESOLUTION 08-72, Executive Session action:
On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, it was:

RESOLVED, that the personnel matters discussed in executive session relating to the performance of certain staff members and their compensation therefor are hereby approved.

2. Proclamation: Constitution Week (September 17 -23)
Mayor Tedder presented the proclamation, proclaiming September 17-23 as Constitution Week
3. Citizen comments: Lawrence Corpe, 3516 Roosevelt Drive, stated a complaint concerning responsiveness of the city to his call for assistance.
4. Mayor and Council comments: The Mayor and Council members apologized to Mr. Corpe for the city's failure to respond promptly to Mr. Corpe's call.
5. RESOLUTION 08-73, Departmental Reports, August Financial Report
On motion by Councilman Pettke, seconded by Councilman Wallace, by a vote of 5 ayes and 0 nays, it was:

RESOLVED, that the departmental and financial reports for August, 2008 be approved and placed in the records of the city.

6. RESOLUTION 08-74, Minutes of August 21, 2008 Meetings.
On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, it was:

RESOLVED, that the minutes of the August 21, 2008 city council meeting be approved and placed in the records of the city.

Public Hearing: None

Tabled Item from Previous Meetings

7. RESOLUTION 08-75, Board and Commission Appointments
On motion by Councilman Wallace, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, the item was removed from the table.

On motion by Councilman Wallace, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, it was:

RESOLVED, that Dr. Clay E. Ellis is appointed to the Planning and Zoning Commission to fill the existing vacancy.

8. RESOLUTION 08-77, Donation of Building for Historical Purposes
On motion by Councilman Loe, seconded by Councilman Wallace, by a vote of 5 ayes and 0 nays, the item was removed from the table.

On motion by Councilman Pettke, seconded Councilman Loe , by a vote of 5 ayes and 0 nays, it was:

RESOLVED, that the donation of the building for historical purposes be denied.

9. Wholesale Interlocal Wastewater Contract
No action was taken.
-

Action Items:

10. ORDINANCE 08-11, 2008-2009 Budget: General Fund, Water Fund, Court Security Fund, Court, Automation Fund, Park Fund, Capital Improvement Fund.

On motion by Councilman Pettke, seconded by Councilman Wallace, by a vote of 5 ayes and 0 nays, the following ordinance was adopted:

AN ORDINANCE OF THE CITY OF DALWORTHINGTON GARDENS , TEXAS ADOPTING COURT SECURITY, COURT TECHNOLOGY, PARK FUND, CRIMECONTROL AND PREVENTION DISTRICTS, PARK AND RECREATION DEVELOPMENT FACILITIES CORPORATION, WATER AND SEWER FUND AND GENERAL FUND OPERATING BUDGETS AND APPROPRIATING RESOURCES FOR THE BUDGET YEAR TO BEGIN OCTOBER 1, 2008 AND ENDING SEPTEMBER 30, 2009.

BE IT ORDAINED:

1.

Subject to the applicable laws of the State of Texas, the budget for the fiscal year of the City beginning October 1, 2008 and ending September 30, 2009 as filed and submitted by the Mayor and adjusted by the City Council, containing estimates of resources and revenues for the year from all the various sources, and the projects, operations, activities and purchases, proposed to be undertaken during the year, together with the estimated costs thereof and estimated amounts of all other proposed expenditures; is hereby approved and adopted.

2.

There is hereby appropriated from the funds indicated and for such purposes respectively, such sums of money as may be required for the accomplishment of each of the projects, operations, activities, purchases and other expenditures proposed in such budget not to exceed for all such purposes proposed for any department, to the total amount of the estimated costs of the projects activities, purchases and other expenditures proposed for such department.

3.

A copy of each of the budgets described in the caption to this ordinance shall be attached to and each is hereby made a part of this ordinance.

11. ORDINANCE 08-12, 2008-2009 Tax Rate
On motion by Councilman Pettke, seconded by Mayor Pro tem Snodgrass, by a vote of 5 ayes and 0 nays, the following ordinance was adopted:

AN ORDINANCE ADOPTING AN AD VALOREM TAX RATE AND LEVYING A TAX ON PROPERTY IN THE CITY OF DALWORTHINGTON GARDENS, TEXAS FOR THE 2008-2009 TAX YEAR.

BE IT ORDAINED:

1.

That there is hereby adopted an ad valorem tax rate per \$100 valuation for this City for tax year 2008 – 2009 as follows:

.2014079 FOR THE PURPOSES OF MAINTENANCE AND OPERATION

.0613311 FOR THE PAYMENT OF PRINCIPAL INTEREST ON DEBT OF THIS CITY

.262739 TOTAL TAX RATE

2.

That a tax at the rate hereinabove adopted is hereby levied on all non-exempt property in the City for the tax year 2008 - 2009.

12. ORDINANCE 08-13, Amendment to Title 3.3 adjusting sewer rates
On motion by Councilman Pettke, seconded by Councilman Wallace, by a vote of 5 ayes and 0 nays, the following ordinance was adopted:

ORDINANCE NO. 08 - 13

AN ORDINANCE AMENDING SECTION 3.3.05 OF CHAPTER 3, PERMIT AND SERVICE FEES, OF TITLE 3, REVENUE AND FINANCE, OF THE CODE OF THE CITY OF DALWORTHINGTON GARDENS, BY AMENDING C., WATER AND SEWER, PARAGRAPH 5, SEWER SERVICE RATES; PRESCRIBING RATES FOR SEWER SERVICE IN THE CITY; REPEALING ORDINANCES IN CONFLICT HERewith; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES OF THE CITY NOT IN CONFLICT HERewith; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

BE IT ORDAINED:

1.

That paragraph (5), Sewer service rates, of sub-section C, WATER AND SEWER, of Section 3.3.05, Schedule of Fees and Charges, of Chapter 3.3, Permit and Service Fees, of Title 3, REVENUE AND FINANCE, of the Code of the City of Dalworthington Gardens be amended so that hereafter the same shall be and read as follows:

(5) Sewer service rates

The following rates per month, based upon water consumption, shall be the rates charged for sewer service furnished to the customers within the corporate limits of the City:

<u>Gallons of water</u>	<u>Residential rate</u>	<u>Commercial rate</u>
First 2000 gallons (minimum)	\$39.00	\$17.50
Over 2000 gallons (per 1000 gallons) (Maximum 13000 gallons charged)	\$2.35	\$2.35

In all cases where more than one residential or commercial unit is supplied sewer measured through a single meter, not less than the minimum charge herein above provided shall be made for each such unit supplied through such meter, multiplied by amount of minimum.

2.

That this ordinance shall repeal any provision of prior ordinances in conflict herewith, but is hereby made cumulative of all other ordinances of the City not in conflict herewith.

3.

That any person violating any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction, be fined in an amount not more than \$500.00.

4.

That the caption and penalty clause of this ordinance shall be published in the Commercial Recorder, a newspaper of general circulation in the community.

5.

That this ordinance shall be in full force and effect from and after the date of its passage and publication.

13. ORDINANCE 08-14, 2007–2008 Budget Amendments

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, the following ordinance was adopted:

AN ORDINANCE OF THE CITY OF DALWORTHINGTON GARDENS,
TEXAS, AMENDING THE OPERATING BUDGET OF THE CITY FOR
FISCAL YEAR 2007-2008; AND DECLARING AN EFFECTIVE DATE.

BE IT ORDAINED:

1.

That the General Fund operating budget of the City for fiscal year 2007-2008, be amended, as to line items described by memorandum to the City Council from the City Administrator dated September 18, 2008, a copy of which is attached hereto and incorporated herein for all purposes.

2.

That any and all expenditures heretofore made pursuant to the budget, as hereby amended, are hereby ratified and affirmed.

3.

That this ordinance shall be in full force and effect from and after the date of its adoption.

14. Approval of Equipment Purchases from Surplus
No action was taken.

15. ORDINANCE 08-15, ATMOS Rate Review Mechanism Filing
On motion by Councilman Pettke, seconded by Councilman Wallace, by a vote of 5 ayes and 0 nays, the following ordinance was adopted:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS, ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "THE COMPANY") REGARDING THE COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS' PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS

PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL.

WHEREAS, the City of Dalworthington Gardens, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "the Company"), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of more than 150 similarly situated cities served by Atmos Mid-Tex that have joined together to facilitate the review and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area (such participating cities are referred to herein as "ACSC Cities"); and

WHEREAS, Atmos and ACSC Cities have been in continuing disagreement, dispute, and litigation over the implementation of GRIP surcharges pursuant to Section 104.301 of the Texas Utilities Code; and

WHEREAS, as part of the negotiations to resolve Atmos' 2007 rate case, ACSC Cities and the Company worked collaboratively to develop the Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled by Cities as a substitute to the current GRIP process instituted by the Legislature; and

WHEREAS, the City took action earlier this year to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company's 2007 rate case and authorizing the RRM Tariff; and

WHEREAS, on or about April 14, 2008, Atmos Mid-Tex filed with the City its first application pursuant to the RRM tariff to increase natural gas rates by approximately \$33.5 million, such increase to be effective in every municipality that has adopted the RRM tariff within its Mid-Tex Division; and

WHEREAS, ACSC Cities coordinated its review of Atmos' RRM filing and designated a Negotiation Committee made up of ACSC representatives and assisted by ACSC attorneys and consultants to resolve issues identified by ACSC in the Company's RRM filing; and

WHEREAS, the Company has filed evidence that existing rates are unreasonable and should be changed; and

WHEREAS, independent analysis by ACSC's rate expert concluded that Atmos is able to justify a rate increase of \$19.8 million; and

WHEREAS, the ACSC Executive Committee, as well as ACSC lawyers and consultants, recommends ACSC members approve the attached rate tariffs ("Attachment A" to this Ordinance) that will increase the Company's revenue requirement by \$20 million; and

WHEREAS, the attached tariffs implementing new rates and Atmos' Proof of Revenues ("Attachment B" to this Ordinance) are consistent with the negotiated resolution reached by ACSC Cities (including but not limited to a reduction of the residential customer monthly charge to \$7.00 per month) and are just, reasonable, and in the public interest; and

WHEREAS, it is the intention of the parties that ACSC Cities receive the benefit of any Settlement Agreement that Atmos enters into with other entities arising out of its RRM or any associated appeals of a decision entered by the Railroad Commission regarding the Company's request to increase rates. The ACSC Cities' acknowledge that the exercise of this right is conditioned upon the ACSC Cities' acceptance of all rates, revenues, terms and conditions of any other Settlement Agreement or associated appeals arising out of the Company's RRM filing *in to*; and

WHEREAS, the negotiated resolution of the Company's RRM filing and the resulting rates are, as a whole, is in the public interest.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. That the findings set forth in this Ordinance are hereby in all things approved.

Section 2. That the City Council finds that the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable and new tariffs and Atmos' proof of revenues, which are attached hereto and incorporated herein as Attachments A and B, are just and reasonable and are hereby adopted.

Section 3. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 4. That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 5. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 6. That if ACSC Cities determine any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in Atmos' RRM filing would be more beneficial to the ACSC Cities than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the ACSC Cities. Exercise of this right is conditioned upon ACSC Cities' acceptance of all rates, revenues, terms and conditions of any other Settlement Agreement or associated appeals arising out of the Company's RRM filing *in to*.

Section 7. That this Ordinance shall become effective from and after its passage with rates authorized by attached Tariffs to be effective for customer bills delivered on or after October 1, 2008.

Section 8. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of David Park, Vice President Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

Section 9. That this Ordinance shall, to the extent applicable, be deemed to amend Chapter 13.3 of the Code of the City of Dalworthington Gardens.

16. RESOLUTION 08-76, Texas Traffic Safety Program Grant Agreement (STEP WAVE)

On motion by Councilman Piland, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, it was:

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION CONCERNING TRAFFIC SAFETY GRANTS (STEP 2009 WAVE)

BE IT RESOLVED:

1.

That the Mayor is hereby authorized to execute an agreement with the Texas Department of Transportation, providing for City participation in the STEP 2009 WAVE traffic safety grant program, a copy of which is appended to this resolution.

2.

That the City Secretary is hereby authorized to attest the execution of the agreement and to affix the seal of the City thereto.

Future Agenda Items

Water Rate Adjustments

Response from oil and gas company

Adjourn

On motion by Councilman Wallace, seconded by Councilman Pettke, by a unanimous vote the meeting was adjourned at 8:25 p.m.
